

House Bill 1138 (AS PASSED HOUSE AND SENATE)

By: Representatives O`Neal of the 146th and Knight of the 126th

A BILL TO BE ENTITLED

AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to define the terms "Internal Revenue Code" and "Internal Revenue Code of 1986" and thereby incorporate certain provisions of the federal law into Georgia law; to provide that certain corporate income tax elections made for federal income tax purposes shall also apply for state income tax purposes; to change certain electronic filing requirements; to provide an effective date; to provide applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended in Code Section 48-1-2, relating to definitions regarding revenue and taxation, by revising paragraph (14) as follows:

"(14) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years beginning on or after January 1, 2009, the provisions of the United States Internal Revenue Code of 1986, as amended, provided for in federal law enacted on or before January 1, 2009 2010, except that Section 85(c), Section 108(i), Section 163(e)(5)(F), Section 164(a)(6), Section 164(b)(6), Section 168(b)(3)(I), Section 168(e)(3)(B)(vii), Section 168(e)(3)(E)(ix), Section 168(e)(8), Section 168(k) (but not excepting Section 168(k)(2)(A)(i), Section 168(k)(2)(D)(i), and Section 168(k)(2)(E)), Section 168(m), Section 168(n), ~~Section 172(b)(1)(F)~~, Section 172(b)(1)(H), Section 172(b)(1)(J), Section 172(j), Section 199, Section 810(b)(4), Section 1400L, Section 1400N(d)(1), Section 1400N(f), Section 1400N(j), Section 1400N(k), and Section 1400N(o) of the Internal Revenue Code of 1986, as amended, shall be treated as if they were not in effect, and except that Section 168(e)(7), Section 172(b)(1)(F), Section 172(i)(1), and Section 1221 of the Internal Revenue Code of 1986, as amended, shall be treated as they were in effect before the 2008 enactment of federal Public Law 110-343, and except that Section

163(i)(1) of the Internal Revenue Code of 1986, as amended, shall be treated as it was in effect before the 2009 enactment of federal Public Law 111-5, and except that Section 13(e)(4) of 2009 federal Public Law 111-92 shall be treated as if it was not in effect. For taxable years beginning on or after January 1, 2009, the terms 'Internal Revenue Code' or 'Internal Revenue Code of 1986' shall also include the provisions of federal Public Law 111-126 as enacted on January 22, 2010. In the event a reference is made in this title to the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on a specific date prior to January 1, ~~2009~~ 2010, the term means the provisions of the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on the prior date. Unless otherwise provided in this title, any term used in this title shall have the same meaning as when used in a comparable provision or context in the Internal Revenue Code of 1986, as amended. For taxable years beginning on or after January 1, 2009, provisions of the Internal Revenue Code of 1986, as amended, which were as of January 1, ~~2009~~ 2010, enacted into law but not yet effective shall become effective for purposes of Georgia taxation on the same dates upon which they become effective for federal tax purposes."

SECTION 2.

Said title is further amended in Code Section 48-7-21, relating to the calculation of Georgia taxable net income for corporations, by revising paragraph (5) of subsection (b) as follows:

"(5) ~~Reserved~~ All elections under Section 338 of the Internal Revenue Code of 1986 shall also apply under this article."

SECTION 3.

Said title is further amended by revising Code Section 48-7-54, relating to electronic filing, as follows:

"48-7-54.

The commissioner may require any nonindividual taxpayer and any return preparer who prepares any return, report, or other document required to be filed by this chapter to electronically file any return, report, or other document required to be filed by this chapter when the federal counterpart of such return, report, or other document is required to be filed electronically pursuant to the Internal Revenue Code of 1986 or Internal Revenue Service regulations. The commissioner shall be authorized to prescribe forms and promulgate rules and regulations deemed necessary in order to effectuate this Code section."

59 **SECTION 4.**

60 (a) This Act shall become effective upon its approval by the Governor or upon its
61 becoming law without such approval.

62 (b) Section 1 of this Act shall be applicable to all taxable years beginning on or after
63 January 1, 2009.

64 (c) Section 2 of this Act shall apply with respect to stock purchases and sales occurring on
65 or after the effective date of this Act.

66 **SECTION 5.**

67 All laws and parts of laws in conflict with this Act are repealed.